

JUDGE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

NARCISO SANTACRUZ-HERNANDEZ,

Defendant.

NO. CR11-5149RBL

ORDER GRANTING UNOPPOSED
MOTION TO EXTEND TIME TO FILE
INDICTMENT UNDER SPEEDY TRIAL
ACT

The Court, having considered the parties' Joint Motion To Extend Time To File
Indictment Under Speedy Trial Act finds that:

1. Mr. Santacruz-Hernandez is charged by Felony Information with Eluding
Examination at Entry First and Second Offense, alleged to have occurred on or about
September 23, 2005, and October 22, 2008, respectively, in violation of Title 8, United States
Code, Section 1325(a)(2). Defendant was arrested and made his Initial Appearance on March
3, 2011, at which time the Court ordered that the defendant be detained in custody pending
further proceedings, and Defendant executed a Waiver of Preliminary Hearing.

2. Under the Speedy Trial Act, an Indictment charging a defendant must be filed
within 30 days from the date on which the defendant was arrested or served with a summons
in connection with such charges. 18 U.S.C. § 3161(b). Hence, at the present time, the United

1 States must obtain an Indictment in this case on or before April 3, 2011, to meet the
2 requirements of the Speedy Trial Act.

3 3. The defendant is diligently conducting an investigation into the circumstances
4 surrounding his situation at the time of his alleged offense. The defendant does not believe
5 that his investigation will be completed by the expiration of the time to obtain an Indictment.
6 The defendant believes that the results of his investigation will be essential to preparing his
7 defense, and may facilitate a resolution of this matter.

8 4. Accordingly, the parties are seeking an Order continuing the time within which
9 an Indictment must be filed on the ground that the “ends of justice served by taking such
10 action outweigh the best interest of the public and the defendant in a speedy trial,” as
11 permitted by 18 U.S.C. §§ 3161(h)(7)(A), (B)(I) and (B)(iv).

12 5. Given that the defense’s investigation remains incomplete, and considering that
13 the defendant needs additional time to evaluate the plea offer, the parties believe that the
14 failure to grant this extension would deny the defense the reasonable time necessary for
15 adequate and effective preparation, taking into account the exercise of due diligence. The
16 parties believe that a denial of a continuance would result in a miscarriage of justice.

17 6. The defendant has executed a Waiver of Speedy Trial waiving rights under the
18 Sixth Amendment and the Speedy Trial Act, 18 U.S.C. §§ 3161-3174 in this regard, and has
19 further agreed that the period from April 3, 2011, until May 3, 2011, shall be an excludable
20 period of time under the Speedy Trial Act pursuant to 18 U.S.C. § 3161(h)(7)(A).

21 In light of the foregoing, IT IS HEREBY ORDERED that the time to file an indictment
22 be continued to May 3, 2011. The period of delay resulting from this continuance from

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1 April 3, 2011 to May 3, 2011, is hereby excluded for speedy trial purposes under 18 U.S.C. §
2 3161(h)(7).

3 DATED this 18th day of March, 2011.


RONALD B. LEIGHTON
UNITED STATES DISTRICT JUDGE

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6 Presented by:

7
8 /s/ Linda R. Sullivan
9 Linda R. Sullivan
10 Attorney for Defendant

11
12 /s/ David R. Jennings
13 David R. Jennings
14 Assistant United States Attorney